MISSOURI DEPARTMENT OF NATURAL RESOURCES

AIR PROGRAM REVIEW

Final Report

February, 2001

Conducted by the

U. S. Environmental Protection Agency

Region 7

901 N. 5th Street

Kansas City, Kansas 66101

TABLE OF CONTENTS

Chapter I

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Introduction

The Executive Summary summarizes the results of the EPA's review of the Missouri Air Pollution Control Program (APCP) conducted in July 2000. This summary and the report are divided into five chapters: Planning, Permitting, Compliance and Enforcement, Asbestos, and Monitoring.

Planning

This section of the review covers regulatory development, emissions inventory, grants and work plan management, regional and local agency coordination, training, modeling, and the small business assistance program.

Regulatory Development - The APCP has a very involved and lengthy rulemaking process, which requires significant staff resources to support. The Planning Section has developed a Rulemaking Manual which provides all necessary information for a rule writer to successfully draft, propose, and finalize a new or revised rule, as well as to submit it to the EPA for State Implementation Plan (SIP) approval. Since the development of this manual about five years ago, there has been a significant improvement in the quality and timeliness of rule actions and SIP submittals.

The rule process has a number of state statutory and administrative time lines which must be met for a rule to be successfully adopted by the Missouri Air Conservation Commission (MACC). Generally, a rule requires a minimum of ten months to get through the system. The APCP staff have very little ability to minimize this time frame. Given the very large number of rulemaking actions each year and the involved and complicated process, the Planning Section staff are to be highly commended for their efforts in this area.

Emission Inventory - The APCP conducts an extensive emission inventory each year. The staff timely submit the information to the national data system. However, two critical problem areas were identified which need to be addressed. The information collected from industry does not distinguish emission release point types (such as stacks versus fugitive emissions.) Thus, not all data fields in the national data base could be completed. Secondly, facilities are permitted to withhold certain process description codes as trade secret. No other state protects this particular information. Thus, these two deficiencies result in

the Missouri source information in the national database being incomplete. The emission inventory forms should be revised appropriately to require all necessary information.

The new state system, MoEIS, is exceptional. The final product will be powerful and should help reduce the workload of staff and minimize data entry errors. Sources are expected to be able to enter information directly into the system via the World Wide Web (WWW) by the summer of 2002. The staff are gaining valuable expertise by conducting the first toxic nonpoint source inventory in the region in connection with the St. Louis Community Air Project. Additional expertise has been developed as a result of the NO_x SIP call. With the exceptions noted above, the Emission Inventory Unit does an excellent job conducting and maintaining the annual emissions inventory, and is to be commended for planning for the future by implementing the MoEIS and utilizing the WWW capabilities.

Grants and Work Plan Management - The MDNR and APCP have a well-defined process for establishing environmental goals and priorities and for identifying objective measures and outputs which lead to strategies and work plan commitments. The MDNR and EPA staff work together to identify mutual environmental goals which are incorporated into the Performance Partnership Agreement. The Administration Section accurately tracks funding mechanisms and accounts for charges to Title V and Federal grant accounts.

Regional and Local Agency Coordination - The APCP effectively coordinates and communicates with the regional and local agency offices through the use of an annual work plan agreement, by providing training opportunities, by monthly and quarterly calls and meetings, and by conducting program audits. These agencies in turn support the mission of the APCP by being the primary contact of the MDNR with the public, and by conducting inspections and responding to citizen complaints. The relationship between the “headquarters” and “field” offices seems to be symbiotic and mutually beneficial.

Training - The APCP includes in its staff budget an amount for individual staff training each year. Each staff member has a training plan in his/her performance appraisal planning document. Training funded with Federal grant dollars is reported to the EPA in the annual work plan report. The APCP provides training for the regional and local agency staff and makes presentations at Region 7 training activities when requested to do so.

Modeling - The modeling program staff is very experienced

and competent in running traditional and regional air dispersion models. The modeling staff participate in modeling for construction permitting when the SCREEN3 model or nomogram indicate more refined modeling is necessary. It is recommended that a background value be added when doing screening modeling, and that increment analysis be considered when performing modeling for minor sources as well as PSD sources.

Small Business Assistance Program - The state administers a very effective program. By maintaining three offices and holding regular meetings and offering a variety of outreach activities, small businesses are provided a wealth of compliance assistance.

The Technical Assistance Program is particularly effective in fulfilling its responsibilities.

Permitting

Overall, the APCP is running a very competent permitting program. The department is fortunate to have several staff with many years of experience and knowledge in the air program. Staff turnover is an ongoing problem, with new staff frequently leaving for the private sector after gaining a few years' experience. At the time of this review there were 9 vacancies in the Permitting Section out of a total of 30 positions. The program is using contractors to fill the gap, but we recommend that the cause for staff turnover, primarily uncompetitive salaries, be addressed if at all possible.

As was evident from our interviews and file review, the staff are knowledgeable about the air program and generally make conservative decisions. Screening modeling for minor sources and toxics reviews are indicative of the program's desire to protect public health.

The program is to be commended for the preparation of the construction permit fact sheets, for the development of a searchable database for all construction and operating permits issued by the program, the development of mass-balance based forms for compliance tracking with long-term emission caps, and for the use of its internal permit tracking system. It is evident that procedures and practices are in place to incorporate past construction permits into Title V operating permits.

We recommend that, in order to reduce the number of sources constructing without a permit (i.e., "as-built projects"), additional outreach and education be extended to the regulated community with regard to permitting requirements. We encourage

the program to make its permit forms, instructions, and guidance available on the Web.

We recommend that sources be required to provide more accurate emissions information on permit applications, that applicability of NSPS-NESHAP-MACT be more closely scrutinized, that sources be required to fully justify the need for a 12-month averaging time, and that care be taken to ensure that permit application conditions are incorporated into the final permit. Any assumptions used to limit potential to emit or otherwise limit source operations should also be explicitly included in the permit.

Compliance and Enforcement

The Compliance Section and the regional offices are to be commended for the inspection and enforcement activity conducted each year, with over 1600 inspections and numerous enforcement actions of various types completed annually. Serious violations are nearly always addressed by an enforcement action, be it a notice of violation (NOV) or a penalty action. There is good coordination and communication between the regional offices, which conduct the inspections, and the Compliance Section, which receives the inspection reports and takes follow-up enforcement action. The regional offices are very timely in responding to complaints.

When violations are found, an NOV is issued and penalties are assessed if deemed appropriate by the Section Chief. The EPA recommends that a penalty policy be developed to establish consistency and ensure fairness when assessing penalties. The program does not hesitate to recommend to the MACC that a case be referred to the Attorney General if a reasonable settlement cannot be reached.

We recommend that the inspection forms be significantly revised to contain more specific source applicability requirements. The present generic forms make it difficult for an inspector to know what permitting requirements the source is subject to. We also recommend that the file documentation be improved to more completely reflect resolution of enforcement actions.

Finally, we recommend that all data necessary to meet the compliance national minimum data requirement guidelines, including high priority violation information, and follow-up compliance information, be directly inputted into AFS by the MDNR.

Asbestos

As a result of a court decision in February of 1998, Missouri's asbestos demolition/renovation rule was declared invalid, and could not be enforced. As a result, MDNR pursued minimal asbestos demo/reno enforcement during our program review period. Recently, however, MDNR has renewed its efforts to pursue penalties for violations of the federal asbestos NESHAP. The level of documentation in asbestos case files varies considerably. MDNR does not have a specific written penalty policy for asbestos violations. EPA recommends that MDNR develop an asbestos data system which is compatible with EPA's National Asbestos Registry System (NARS).

Monitoring

The MDNR and local agencies operate and maintain the largest air monitoring network in Region 7 with over 135 monitors at 55 sites. The air monitoring staff is to be commended for its expertise and dedication to maintaining a network which, with few exceptions, meets all data quality objectives. The program is unique in that it maintains an independent quality assurance capacity, which results in an exceptionally high level of valid data collection and accuracy. The program has established multiple fail-safe systems to protect the integrity of the ozone monitoring data, and uses an Internet link to download $PM_{2.5}$ data from the field monitors. The EPA does have several routine recommendations for improvement which are detailed in the Audit Report.